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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/997,368	12/23/97	HIMURO	048849

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EXAMINER

MAKI, S

ART UNIT. PAPER NUMBER

1733

DATE MAILED: 07/06/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

08/997368

Applicant(s)

Himuro

Examiner

MaKi

Group Art Unit

1733

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 4-27-99

☒ This action is FINAL.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 6, --wherein-- should be inserted after “central zone” since for example line 8 recites “the slant grooves comprise” instead of --the slant grooves comprising--.

In claim 1 last five lines, the description of the tapered top surface is ambiguous and confusing. In particular, the description of “from a tapered top end over a range of 10-30 mm in a longitudinal direction of the block so as to gradually shallow a depth of a surface of the block **from the tapered top end a longitudinal direction of the block so as to gradually shallow a depth of a surface of the block from the tapered top end in the longitudinal direction**” is ambiguous and confusing. Claim 1 describes chamfering. This chamfering is located between two positions. One of the positions is described as “a tapered top end”. What is the other position?

In claim 8, “the side of a block the central zone” (which is ambiguous) should be --a side of a block formed in the central zone--.

In claim 9, there is no antecedent basis for “the gently slant groove opening to the circumferential side groove”.

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3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Europe '332 (EP 627332) in view of Europe '718 (EP 705718) and Japan '025 (JP 5-319025) and optionally either Europe '685 (EP 688685) or Japan '215 (JP 6-40215).

Europe '332, Europe '718, Japan '025, Europe '685 and Japan '215 are applied as in paragraph 4 of the last office action (Paragraph 4 of the last office action is incorporated herein by reference).

Applicant comments: "[e]ven if the grooves 2 are considered by the Examiner to be circumferentially extending grooves..." (page 10 of response filed 4-27-99). In response, the examiner confirms that grooves 2 are circumferentially extending grooves since they are grooves which extend in the circumferential direction.

Applicant argues that one of ordinary skill in the art would clearly recognize that the grooves 2 are not defined for purposes of improving drainage or indeed to facilitate the removal of water from the tread pattern. The examiner disagrees. Grooves 2 of Europe '332 are for improving drainage / facilitating removal of water since (1) Europe '332 expressly describes grooves 2 as being "longitudinal grooves 2" (column 5 line 6) and (2) Europe '332 expressly states: "the longitudinal grooves and transverse cuts cooperate in performing an efficient draining

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action of the water from the imprinting area of the tyre during running on a wet road bed.”
(column 1 lines 30-35).

With respect to Europe ‘718, applicant contrasts a single groove with a plurality of steeply slant grooves and a plurality of gently grooves. In response, the examiner notes that the tread pattern of each of applicant, Europe ‘332 and Europe ‘718 includes a “groove” comprising a steeply slant groove and a gently slant groove. Each of applicant, Europe ‘332 and Europe ‘718 therefore include the “same groove” instead of “distinctly different grooves”.

Applicant argues and the examiner agrees that the steeply slant grooves of Europe ‘332 do not open into the circumferential groove 12 but rather into a small longitudinal groove 2. Applicant argues and the examiner agrees that water in the groove 12 is restrained from lateral movement by the two circumferential ribs 11. The examiner adds that applicant’s arguments regarding a circumferential groove 12 at the equatorial plane of the tire are irrelevant since none of the claims exclude a circumferential groove 12 at the equatorial plane of the tire.

Applicant argues that the tread pattern of Europe ‘718 is distinctly different from the tread pattern of Europe ‘332 since the tread pattern of Europe ‘718 is unidirectional. This argument is not persuasive since Europe ‘332 directly suggests using a unidirectional tread pattern as an alternative to a nondirectional tread pattern. See column 10 lines 41-45 of Europe ‘332 - it being noted that a mirror image version of the tread pattern of figure 1 is a unidirectional tread pattern.

Applicant argues that there would be no motivation to provide tapering of the blocks 7 of Europe ‘332. The examiner disagrees. The motivation to taper the blocks includes smoothening

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bifurcation of water, ensuring rigidity and developing steering stability as per the teachings of Europe '718 and avoiding wear as per the teachings of Japan '025.

Applicant argues and the examiner agrees that the tread pattern of Europe '718 does not include a circumferential groove. However, Europe '718, like Europe '332, teaches using a continuous transverse groove which comprises a gently slant groove and a steeply slant groove. Furthermore, although Europe '178 does not specifically recite using the tapering feature in a tread which includes a circumferential groove, Japan '025 shows using a tapering feature in a tread which, like Europe '332, includes a circumferential groove.

With respect to Japan '685 and Japan '215, the examiner merely notes that applicant has failed to argue that the prior art fails to suggest providing each block with a sipe.

5) ALLOWABLE SUBJECT MATTER

Claim 10 would be allowable if rewritten to (1) overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action, (2) to include all of the limitations of the base claim and any intervening claims and (3) amended to include the subject matter described at pages 8-9 and shown in figure 1 - figure 1 showing the arrangement and configuration of two sipes 6 formed in a block at the central zone.

Uemura is cited of interest. Uemura shows bent sipes 11 in figure 7 instead of the arrangement and configuration of two sipes 6 formed in a block at the central zone as shown in figure 1 of applicant's disclosure.

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6) REMARKS

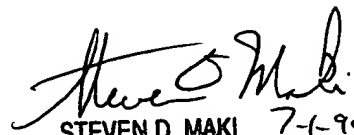
Applicant's arguments filed 4-27-99 have been fully considered but they are not persuasive.

7) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (703) 308-2068. The examiner can normally be reached on Monday to Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for Art Unit 1733 is (703) 305-7718. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
July 1, 1999


STEVEN D. MAKI 7-1-99
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733